



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE:

Consider a Resolution of the City Council of the City of Lodi, California Ordering that a Measure be Submitted to the Voters at the November 5, 2002 General Municipal Election Relating to Increasing the Hotel-Motel Occupancy Tax Collection Rate from 9% to 10%.

MEETING DATE:

July 3, 2002

PREPARED BY:

Randall A. Hays, City Attorney

RECOMMENDATION:

That the City Council adopt the Resolution Submitting to the Voters the Increase in the Hotel-Motel Occupancy Tax Collection Rate from 9% to 10%.

BACKGROUND:

The State Legislature placed §51030 in the California Government Code in 1963. This represented the first statutory expression and authorization of the occupancy tax. The current authority is found since 1971 in §7280 of the California Revenue and Taxation Code.

The first expression of an occupancy tax in Lodi occurred September 16, 1964. Until 1991 the tax collection rate was 6%. In 1991 that collection rate was moved up to 9%. Staff is recommending that the collection rate be moved up to 10%. This recommendation requires that the proposed 10% collection rate be submitted to the voters due to the passage of Proposition 62 in 1986. The terms of that proposition are found in §§53720 through 53730 of the California Government Code.

§53723 requires that any general tax be submitted to the electorate and approved by a majority (50%+1) vote of the voters voting in an election on the issue. This tax has been and is recommended to continue to be a general tax placed in the City's general fund and available for general governmental purposes.

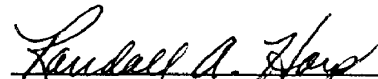
§53724 requires that this ballot proposal only be placed on the ballot if 2/3 of all of the governing body's members vote to do so. In the case of a 5 member body such as the City Council, this requirement really demands that at least 4 members of the City Council occur.

The current 9% collection rate generates approximately \$429,799.00 in revenues. A 10% rate would generate approximately \$47,755.45 in additional revenue.


Included with the memo is a chart which shows what the occupancy tax rates are for jurisdictions around Lodi. Based upon a review of those rates, staff believes that the proposed 10% rate for Lodi is appropriate.

Funding: Not applicable.

Respectfully submitted,


Randall A. Hays, City Attorney

APPROVED: _____


H. Dixon Flynn -- City Manager

CITY	TOT
Davis	10%
Galt	10%
Lodi	9%
Manteca	9%
Modesto	9%
Monterey	10%
Napa	12%
Roseville	6%
San Luis Obispo	10%
San Joaquin Co.	8%
Stockton	8%
Tracy	10%
Turlock	9%
Woodland	10%

RESOLUTION NO. 2002-____

DRAFT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI,
CALIFORNIA, ORDERING THAT A MEASURE BE SUBMITTED TO THE
VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE
CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION ON
NOVEMBER 5, 2002 RELATING TO INCREASING THE HOTEL-MOTEL
OCCUPANCY TAX COLLECTION RATE FROM 9% TO 10%

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WHEREAS, the City Council desires to submit to the voters of the City of Lodi at the General Municipal Election to be consolidated with the Statewide General Election on November 5, 2002 a question relating to increasing the Hotel-Motel Occupancy Tax Collection Rate from 9% to 10%.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LODI, CALIFORNIA,
DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

Shall Ordinance No. 1714 Increasing the Hotel-Motel Occupancy Tax Collection Rate From 9% to 10% be Enacted.	Yes
	No

SECTION 2: That the proposed complete text of the measure submitted to the voters is as follows:

ORDINANCE NO. 1714

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING TITLE OF CHAPTER 3.12 "TRANSIENT OCCUPANCY TAX",
RENAMING IT "HOTEL-MOTEL OCCUPANCY TAX, REPEALING AND
RE-ENACTING LODI MUNICIPAL CODE SECTION 3.12.030, THEREBY
INCREASING THE CITY OF LODI HOTEL-MOTEL OCCUPANCY TAX
FROM 9% TO 10%, AND REPEALING SECTION 3.12.035 IN ITS
ENTIRETY

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS
FOLLOWS:

SECTION 1. Chapter 3.12 "Transient Occupancy Tax" of the Lodi Municipal Code is hereby amended by repealing its current title and re-titling Chapter 3.12 – Hotel-Motel Occupancy Tax.

SECTION 2. Section 3.12.030 of the Lodi Municipal Code is hereby repealed and re-enacted as follows:

3.12.30.1 Imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

SECTION 3. Section 3.12.035 of the Lodi Municipal Code is hereby repealed in its entirety.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 6. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 7. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

SECTION 3. That the City Clerk of the City of Lodi is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct said election.

SECTION 4. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the county election department of the County of San Joaquin.

SECTION 5. That the City Attorney prepare a ballot summary for inclusion in election materials not to exceed 500 words.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Dated: July 3, 2002

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I hereby certify that Resolution No. 2002-____ was passed and adopted by the City Council of the City of Lodi in an adjourned regular meeting held July 3, 2002 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

Susan J. Blackston
City Clerk

2002-____